

Material changes to the nutrient management rules following public comment

Title 19

Section 1902.7.B. was deleted. It provided for the collection of copying and other administrative fees.

Section 1903.2.A.1. Complainants are required to submit written complaints, give contact information, and sign the complaint in the presence of a notary public.

Section 1903.3.A. A graduated penalty scale was created. It ranges from the issuance of a warning letter on the first offense, to a maximum \$50 penalty for the second offense, and the ability to impose up to the statutory maximum for the third offense. To move up the scale, a person would have to be found in violation the second or third time within one year of receiving a warning letter.

Section 1903.3.D. Restated Ark. Code Ann. § 15-22-208 language stating that the Commission and the Director may issue subpoenas to any witness requiring attendance and testimony before the Commission.

Section 1904.1 Added more explanatory language to Judicial Review section.

Title 20

Section 2003.1 Certification will be for 5 years rather than 3. All other sections where the term is listed were changed.

Part of Section 2005.1.A. was deleted. It provided for the collection of copying and other administrative fees.

Section 2006.2.A.1. Complainants are required to submit written complaints, give contact information, and sign the complaint in the presence of a notary public.

Section 2006.3.A. A graduated penalty scale was created. It ranges from the issuance of a warning letter on the first offense, to a maximum \$50 penalty for the second offense, and the ability to impose up to the statutory maximum for the third offense. To move up the scale, a

person would have to be found in violation the second or third time within one year of receiving a warning letter.

Section 2006.3.D. Restated Ark. Code Ann. § 15-22-208 language stating that the Commission and the Director may issue subpoenas to any witness requiring attendance and testimony before the Commission.

Section 2007.1 Added more explanatory language to Judicial Review section.

Title 21

Section 2101.5. We redrafted this section to address the following situations in which a certified applicator is assisted by others:

- 1) Poultry farmers who spread litter on the farms of friends and neighbors;
- 2) Poultry farmers who own cleanout equipment and help friends and neighbors;
- 3) Farm employees and volunteers; and
- 4) Employees of commercial fertilizer businesses.

Section 2104.1. Certification will be for 5 years rather than 3. All other sections where the term is listed were changed.

Section 2106.1.A. was deleted. It provided for the collection of copying and other administrative fees.

Section 2107.2.A.1. Complainants are required to submit written complaints, give contact information, and sign the complaint in the presence of a notary public.

Section 2107.3.A. A graduated penalty scale was created. It ranges from the issuance of a warning letter on the first offense, to a maximum \$50 penalty for the second offense, and the ability to impose up to the statutory maximum for the third offense. To move up the scale, a person would have to be found in violation the second or third time within one year of receiving a warning letter.

Section 2107.3.D. Restated Ark. Code Ann. § 15-22-208 language stating that the Commission and the Director may issue subpoenas to any witness requiring attendance and testimony before the Commission.

Section 2108.1 Added more explanatory language to Judicial Review section.

Title 22

Section 2201.3.D. was deleted. It provided for the collection of copying and other administrative fees.

Section 2202.3.D. Allows someone under the direction or control of a certified applicator to apply nutrients.

Section 2202.4. Several items have been modified:

- 1) Reference to rain forecast removed;
- 2) Strict, 15% slope restriction was removed;
- 3) Setbacks removed; and
- 4) section regarding nutrient application directly to water to increase fish production was added.

Section 2202.5.B. We clarified when the protective rate may be used and when a soil test is required.

Section 2202.5.E. When the soil lab is backed up, a landowner may apply according to the written recommendation of a county agent, district conservationist, or commercial applicator.

Sections 2203.3.B.4.A and 2204.2.B.6.A. Soil tests now required only every 5 years to match period for updating plans.

Sections 2203.3.B.4. B and 2204.2.B.6.B. Altered annual litter testing requirement. (Training of certified planners will specify how litter should be tested.)

Section 2205.2. Litter from a Nutrient Surplus Area used outside of a nutrient surplus area must be applied according to a plan or at the protective rate. Litter may be used for purposes other than land application so long as the Commission approves usage.

Subtitle VI. Language from the statute repeating the Litter Utilization Committee language was struck.

Section 2206.2.1. Complainants are required to submit written complaints, give contact information, and sign the complaint in the presence of a notary public.

Section 2206.3.A. A graduated penalty scale was created. It ranges from the issuance of a warning letter on the first offense, to a maximum \$50 penalty for the second offense, and the ability to impose up to the statutory maximum for the third offense. To move up the scale, a person would have to be found in violation the second or third time within one year of receiving a warning letter.

Section 2206.3.D. Restated Ark. Code Ann. § 15-22-208 language stating that the Commission and the Director may issue subpoenas to any witness requiring attendance and testimony before the Commission.

Section 22206.4 Added more explanatory language to Judicial Review section.

Subtitle VIII was deleted. This section re-stated language from the statute clarifying that there is no conflict between the law and laws that are administered by the Arkansas Department of Environmental Quality.

PROPOSED EFFECTIVE DATES OF TITLES

TITLES 19, 20, and 21: September 15, 2004

TITLES 22: January 1, 2006

Persons may voluntarily obtain certification once the planner and applicator programs under Titles 20 and 21 become available. Title 22, which requires persons making nutrient application in nutrient surplus areas to be certified as an applicator and to apply according to a nutrient management plan or at the protective rate, will not become effective until January 1, 2006. Delaying the effective date of Title 22 allows the development of nutrient management plans and the certification of more persons before the date by which certification and application by nutrient management plan or protective rate will be required.